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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,447	07/23/2003	Gaurav Mittal	004770.00491	7966

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WASHINGTON, DC 20005-4051

EXAMINER

WU, QING YUAN

ART UNIT	PAPER NUMBER
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2194

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/625,447	MITTAL, GAURAV	
	Examiner	Art Unit	
	Qing-Yuan Wu	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>2/28/07</u> |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 and 15-34 are pending in the application.

Claim Objections

2. Claims 8 and 12 are objected to because of the following informalities:
 - a. As to claim 8 - "a the client device" should read --the client device-- .
 - b. As to claim 12- the double period at the end of the claim should be corrected.

Appropriate correction is required.

Drawings

3. Figures 4 and 6 are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference character 424, more specifically the specification failed to explained what "ADA" stands for. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 8, 11-12, 26, 29, 32 and 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. As to claim 8, the current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the claimed subject matter lacks a practical application of a judicial exception since it fails to produce a useful, concrete and tangible result. Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data. More specifically, the claimed subject matter provides for generating “an initiation request for information describing available application sand for a link...”. This produced result remains in the abstract since there is no result returned to satisfy the request, thus, fails to achieve the required status of having real world value. Claims 11-12, 26, 29, 32 and 34 are rejected for the same reason. See MPEP 2107.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-8, 10-12 and 16-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibbons et al (hereafter Gibbons) (U.S. Publication 2004/0034853).

9. As to claim 8, Gibbons teaches a method, comprising:

receiving at a client device a request for information describing available applications [pg. 6, paragraph 74, lines 5-9 and paragraph 75]; and

generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application [pg. 4, paragraph 50, lines 14-17 and paragraph 56; pg. 6, paragraphs 75-76].

10. As to claim 1, this claim is rejected for the same reason as claim 8 above (from the perspective of the domain where the download object is downloaded from and the application download server [pg. 6, paragraph 80; Figs. 1-2]).

11. As to claim 2, Gibbons teaches receiving from the client device a request for an application descriptor, said request comprising a link to the application descriptor; and transmitting said application descriptor to said client device [pg. 6, paragraph 76, lines 4-5 and paragraph 80].

12. As to claim 3, this claim is rejected for the same reason as claim 2 above. In addition, Gibbons teaches retrieving the selected application; and transmitting the selected application to the client device [pg. 6, paragraph 81].

13. As to claim 4, Gibbons teaches wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone [pg. 1, paragraph 5].

14. As to claim 5, Gibbons teaches wherein the at least one server computer comprises at least one of a network server and an application server [pg. 4, paragraph 57, lines 8-10].

15. As to claim 6, this claim is rejected for the same reason as claim 5 above.

16. As to claim 7, Gibbons teaches wherein the link is one of a uniform resource locator and a uniform resource identifier [pg. 6, paragraph 76].

Art Unit: 2194

17. As to claim 10, Gibbons teaches including determining from the application descriptor whether an application is suitable for downloading to the client device, and upon a determination that the application is suitable for downloading to the client device, downloading the application [pg. 6, paragraphs 79-81; pg. 9, paragraph 119; Figs. 6 and 8].

18. As to claim 11, this claim is rejected for the same reason as claim 4 above.

19. As to claim 12, this claim is rejected for the same reason as claim 7 above.

20. As to claim 16, this claim is rejected for the same reason as claims 1 and 8 above. In addition, Gibbons teaches a wide area network interconnecting the at least one server computer and the client device [100, Fig. 1].

21. As to claim 17, this claim is rejected for the same reason as claims 2 and 3 above.

22. As to claims 18-21, these claims are rejected for the same reason as claims 4-7 above.

23. As to claim 26, this claim is rejected for the same reason as claim 8 above. In addition, Gibbons teaches an input device [pg. 9, paragraphs 111, 113]; output device [375, Fig. 3]; memory for storing instructions and a processor [pgs. 1-2, paragraphs 12, 14 and 28; abstract].

Art Unit: 2194

24. As to claim 27, this claim is rejected for the same reason as claims 1, 6 and 26 above. In addition, Gibbons teaches a content/application download model [pg. 1, paragraphs 6-7; pg. 7, paragraph 87].

25. As to claim 28, this claim is rejected for the same reason as claim 10 above.

26. As to claim 29, this claim is rejected for the same reason as claim 12 above.

27. As to claim 22, this claim is rejected for the same reason as claims 1 and 26 above.

28. As to claims 23-25, these claims are rejected for the same reason as claims 2-4 above.

29. As to claim 30, this claim is rejected for the same reason as claim 1 above.

30. As to claim 31, this claim is rejected for the same reason as claim 3 above.

31. As to claim 32, this claim is rejected for the same reason as claim 8 above.

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. Claims 9, 15 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbons as applied to claims 1, 8, 16, 22, 26, 30 and 32 above.

34. As to claim 9, this claim is rejected for the same reason as claim 27 above. In addition, Gibbons does not specifically teach displaying at the client device the application requested. However, Gibbons disclosed displaying information about Download Object (applications) [pg. 4, paragraph 56; pg. 6, paragraph 76], executing applications [pg. 1, paragraph 6] and icons that can be display on a GUI of a mobile device to represent application [pg. 9, paragraph 117; pgs. 9-10, paragraphs 122, 125; pg. 11, paragraph 131-132]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to further improve on the teaching of Gibbons by displaying application downloaded at the client device to provide a visual indication to user for the ease of invoking the application for execution visually.

35. As to claim 15, this claim is rejected for the same reason as claim 9 above.

36. As to claims 33-34, these claims are rejected for the same reason as claims 9 and 15 above.

Response to Arguments

37. Applicant's arguments filed 2/13/07 have been fully considered but are moot in view of the new ground of rejection.

Art Unit: 2194

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Qing-Yuan Wu

Examiner

Art Unit 2194


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